

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

CIVIL REVISION PETITION NO. 338 OF 2018

ORDER:

The petitioners are defendants 2 and 5 in O.S.No.14 of 2001 on the file of the VI Additional District Judge, Nellore. The respondent herein filed the said suit against the petitioners herein and other defendants for recovery of an amount of Rs.43,96,011/- with subsequent interest on Rs.18,20,000/- @12% p.a. from the date of suit till the date of realization based on five promissory notes executed on different dates in favour of Sri Kamakshi Commercial Finance Corporation. The petitioners mortgaged their title deeds bearing document Nos.2209/1972 dated 24.8.1972 relating to item no.1 of the plaint immovable property as collateral security in favour of Sri Raghavendra Enterprises for due payment of money under the said promissory notes by executing a memorandum of deposit of title deed on 24.11.1988 and 31.3.1999. Similarly, the 5th respondent executed a document relating to item No.2 of the plaint schedule immovable property as a collateral security in favour of Sri Kamakshi Commercial Finance Corporation by executing a memorandum of deposit of title deed on 24.7.1988. The said Raghavendra Enterprises transferred their four promissory notes dated 8.6.1988, 4.8.1988, 11.10.1988 and

30.3.1989 in favour of the respondent for due consideration and authorised the plaintiff/respondent herein to collect the entire amount due under the suit promissory notes with a charge over item No.1 of the plaint schedule property. Similarly, Sri Kamakshi Commercial Finance Corporation transferred the said promissory note dated 4.7.1988 in favour of the respondent/plaintiff after full consideration and authorized the respondent/plaintiff to collect the entire amount under the said suit promissory note with a charge over item No.2 of the plaint schedule property by executing a transfer endorsement dated 14.8.2000. In the suit, the promissory notes were marked as Exs.A.28, A.29, A.30, A.31 and A.32 subject to the objection raised by the petitioners. The petitioners filed I.A.No.649 of 2006 praying to impound the documents in question, levy and collect stamp duty and collect penalty from the respondent/plaintiff. But the said application was closed on 6.12.2007 with an endorsement that, 'the documents received from the District Collector, Nellore without collecting stamp duty and penalty since the respondent/plaintiff did not pay the amount.' In those circumstances, they filed the present application in I.A.No.196 of 2017 to reject the documents.

2. The respondent/plaintiff filed a counter stating that the documents were marked in evidence after looking into the endorsement. It was further stated that appropriate stamp duty and penalty were paid and after taking those endorsements into consideration, the documents were marked. In support of his case, the respondent/plaintiff produced Challans bearing Nos.32682, 32683, 32684, 32685 and 32686 dated 1.7.2008. When the said application was dismissed by the trial Court by order dated 29.12.2017, the present Civil Revision Petition was filed.

3. The trial Court noticed that an amount of Rs.30/- was paid as Stamp duty and penalty of Rs.300/- was also paid under separate challans dated 1.7.2008 and the documents were returned only after collecting stamp duty and penalty.

4. Regarding the objection relating to the registration, the trial Court came to the conclusion that the parties did not enter into a separate instrument by way of contract and Exs.A.28 to A.32 are endorsements made on the back side of the suit promissory notes and accordingly held that they do not require any registration.

5. I have carefully considered the reasoned order passed by the VI Additional District Judge, Nellore and I am in agreement with the said findings recorded by the learned VI Additional

District Judge. They do not warrant any interference in the exercise of revisional jurisdiction of this Court.

6. The Civil Revision Petition is, accordingly, dismissed.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

A. RAMALINGESWARA RAO,J

Date: 2.4.2018

KPM

